

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Sprint Nextel Corporation	)	TCNS No. 54336 (Valley Peak)
	)	
Proposed Communications Facilities on	)	TCNS No. 54337 (Centinela Peak)
Santa Cruz Island, California	)	
	)	

**ORDER**

**Adopted: November 23, 2010**

**Released: November 23, 2010**

By the Deputy Chief, Spectrum & Competition Policy Division, Wireless Telecommunications Bureau:

**I. INTRODUCTION**

1. In this Order, the Spectrum and Competition Policy Division (Division) of the Wireless Telecommunications Bureau affirms our decision of September 8, 2010, that two wireless communications towers proposed for construction on Santa Cruz Island, California, will not have adverse effects on historic properties within the meaning of Section 106 of the National Historic Preservation Act of 1966 (NHPA).<sup>1</sup> Two parties petitioned for reconsideration of the Division's decision, arguing that the Division failed to consult properly with Indian Tribes and that the towers will adversely affect historic properties of traditional religious and cultural importance to the Chumash Indians. For the reasons discussed below, we find that the Division has fulfilled the Commission's legal obligations toward federally recognized Indian Tribes and other consulting parties, and that we correctly analyzed the effects of the proposed towers. Accordingly, we deny the petitions for reconsideration and dismiss the accompanying requests to stay the effectiveness of the Division's determination.

**II. BACKGROUND**

2. Santa Cruz Island (the Island) is located in the Channel Islands off the coast of Southern California. The Nature Conservancy (TNC), a not-for-profit environmental organization, owns 76% of the Island, and the National Park Service (NPS) owns the remaining 24% of the Island. TNC has made an arrangement with Sprint Nextel Corporation (Sprint Nextel) to provide reliable wireless communications service for those who live, work on, and visit the Island.<sup>2</sup> The project calls for the installation of two 15-foot steel poles and support facilities at Valley Peak and Centinela Peak on TNC's portion of the Island, as well as facilities at a mainland site near Carpinteria, California.

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<sup>1</sup> 16 U.S.C. § 470f.

<sup>2</sup> Although TNC is the landlord for the communications facilities, Sprint Nextel is the FCC licensee that will provide the communications service.

3. As part of the Section 106 review process required under the NHPA and the Commission's rules,<sup>3</sup> TNC notified federally recognized Indian Tribes about the proposed communications facilities through the Commission's Tower Construction Notification System (TCNS).<sup>4</sup> In response, the Santa Ynez Band of Chumash Indians (Santa Ynez Band) asked the Division to consider the effects of the two proposed communications facilities on historic properties of cultural and religious importance to that Tribe.<sup>5</sup> In addition, TNC, following the guidance of the California State Historic Preservation Officer (CA SHPO), sent notifications of the proposed project to the state-recognized tribes identified by the Native American Heritage Commission for Santa Barbara County.<sup>6</sup> On September 17, 2009, TNC sent an e-mail regarding the proposed project to the Santa Ynez Band, with copies to the state-recognized tribes, enclosing its consultant's preliminary conclusion, based on a survey by an NPS archaeologist,<sup>7</sup> that the project would not adversely affect historic properties on the Island.<sup>8</sup> In response, TNC learned that several state-recognized tribes and affiliated groups of Chumash Indians had concerns about the effects of the proposed communications facilities on historic properties with religious or cultural significance to the tribes.

4. On November 13, 2009, Division staff participated by telephone in a meeting with representatives of the Santa Ynez Band, state-recognized Chumash tribes, and TNC. At the conclusion of the meeting, the meeting participants agreed that a site visit would be beneficial to address the tribes' concerns. On January 30-31, 2010, members of the Santa Ynez Band and state-recognized Chumash tribes visited the Island with TNC staff to view the proposed project sites. At the conclusion of the site visit, the group requested that a non-NPS archaeologist conduct an additional survey of both proposed sites, as well as of an equipment staging area near the Valley Peak site. The group also requested that a qualified Chumash site monitor be present while the new survey was being conducted.

5. An additional archaeological survey was conducted on February 18 and 19, 2010, by an NPS archaeologist and an independent archaeologist, accompanied by a Santa Ynez Band tribal monitor.

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<sup>3</sup> See 47 C.F.R. § 1.1307(a)(4) and Part 1, App. C, Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process (NPA).

<sup>4</sup> TCNS Nos. 54336 (Valley Peak) and 54337 (Centinela Peak), submitted July 29, 2009. The TCNS enables federally recognized Indian Tribes to identify geographic areas in which historic properties of cultural and religious significance to them may be located, and provides automatic notice to the Tribes of all proposed constructions entered into the TCNS within those areas. The goal of the TCNS is to facilitate the Section 106 process and thereby protect historic properties, including properties of religious and cultural significance to federally recognized Indian Tribes. The TCNS is a tool to facilitate Section 106 communications, and its use does not take the place of Section 106 consultation.

<sup>5</sup> TCNS replies by Freddie Romero, Santa Ynez Band of Chumash Indians, in response to TCNS Nos. 54336 and 54337, dated Aug. 17, 2009.

<sup>6</sup> See Letters dated Aug. 13, 2009, and Aug. 27, 2009, from Al Martinez, Section Manager Telecommunications Services, Michael Brandman Associates, to the Native American representatives listed on the Native American Heritage Commission's August 12, 2009, contact listing for Santa Barbara County, California.

<sup>7</sup> A Cooperative Agreement between NPS and TNC provides for NPS involvement in projects that might have an effect on cultural resources and historic properties on the Island.

<sup>8</sup> See E-mail dated Sept. 17, 2009, from Ric Wiles, Santa Cruz Island Operations Director, TNC, to representatives of the Santa Ynez Band and state-recognized Chumash tribes.

The consultant's report for the additional survey noted that much of Santa Cruz Island is listed on the National Register of Historic Places as a historic district due to the extensive number of archaeological sites located about the Island that relate to the use of the Island by the Chumash Indians, as well as by non-natives throughout much of the nineteenth and twentieth centuries. During the additional survey, no evidence was found at either of the sites that the proposed communications project would have any adverse effect on historic properties. Accordingly, TNC and its archaeologist concluded that the communications facilities would have no adverse effect on the Santa Cruz Island Archaeological District. On May 21, 2010, TNC forwarded that survey report to the Division, the Santa Ynez Band, and the state-recognized Chumash tribes.<sup>9</sup> TNC instructed that any comments on the report should be sent via e-mail to TNC by June 4, 2010, or to the CA SHPO after June 4, 2010. Neither comments nor requests for extension of time were filed.

6. On June 22, 2010, the Division received the CA SHPO's concurrence that the proposed construction of the communications facilities on the Island would have no adverse effect on historic properties, providing that certain conditions were met during construction.<sup>10</sup> The CA SHPO letter stated that there will be no adverse effect if a qualified archaeological monitor and a Native American monitor are present at the site during all ground-disturbing activities, and if the excavations are conducted slowly so that the monitors can see any buried materials and identify any cultural material before significant damage is done. In the event of an inadvertent find, all work must cease and the CA SHPO must be notified immediately.<sup>11</sup> On June 24, 2010, TNC forwarded the CA SHPO's conditional no adverse effect finding to the Santa Ynez Band and the state-recognized Chumash tribes, with instructions to direct any comments to the Division. Neither comments nor requests for extension of time were filed.

7. By letter of September 8, 2010, the Division agreed with the CA SHPO that, subject to the conditions specified by the CA SHPO, the proposed communications facilities would not have an adverse effect on historic properties.<sup>12</sup> Specifically, we found that there was no evidence of archaeological deposits at either site, and that the CA SHPO's conditions sufficiently guarded against unanticipated discoveries. We further noted that in light of the need for reliable communications to ensure the safety of workers and visitors on the Island, it was important to bring the review process to a timely close.

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<sup>9</sup> See E-mail dated May 21, 2010, from Ric Wiles, Santa Cruz Island Operations Director, TNC, to representatives of the Santa Ynez Band and state-recognized Chumash tribes, forwarding the archaeological survey results and setting comment deadlines.

<sup>10</sup> See undated SHPO Conditional Concurrence, signed by Susan K. Stratton, Senior State Archaeologist and Cultural Resources Program Supervisor, on behalf of California SHPO Milford Wayne Donaldson, received by the FCC on June 22, 2010.

<sup>11</sup> We note that the Commission's rules similarly require that when historic resources are unexpectedly discovered during construction, work immediately cease and the applicant promptly notify the Commission, the SHPO, and potentially affected Indian Tribes. NPA, § IX.

<sup>12</sup> See Letter from Jeffrey S. Steinberg, Deputy Chief, Spectrum and Competition Policy Division, Wireless Telecommunications Bureau, FCC, to Freddie Romero, Cultural Preservation Consultant, Santa Ynez Band of Chumash Indians, dated Sept. 8, 2010 (No Adverse Effect Determination).

8. On September 20, 2010, the Northern Chumash Tribal Council (NCTC)<sup>13</sup> filed a petition for reconsideration (NCTC Petition), arguing that the Division did not make a reasonable and good faith effort to consult with Indian Tribes as required under the NHPA and the regulations of the Advisory Council on Historic Preservation (ACHP).<sup>14</sup> NCTC further argues that the finding of no adverse effect was flawed in that the Division attached inappropriate importance to existing disturbances on the Island, failed to recognize the sacred nature of the tower sites, and based its decision on an incomplete record due to the failure of consultation.<sup>15</sup> In addition, NCTC questions the Division's findings about the need for and purposes of the proposed towers.<sup>16</sup> Accordingly, NCTC requests that the Division reopen the Section 106 process in order to hear the Tribes' concerns.<sup>17</sup>

9. On October 8, 2010, Frank Arredondo, a member of the Coastal Band of the Chumash Nation, filed a separate petition for reconsideration.<sup>18</sup> Mr. Arredondo argues that the Division did not properly consult with federally recognized Indian Tribes and improperly delegated consultation authority to TNC. Both NCTC and Mr. Arredondo also request a stay of the No Adverse Effect Determination pending the resolution of their Petitions, arguing that construction of the towers would cause them irreparable harm.<sup>19</sup>

### III. DISCUSSION

10. Under the Commission's rules, an applicant to construct facilities must determine whether the facility falls within one of eight categories specified in the Commission's rules that may significantly affect the environment and thus requires preparation of an environmental assessment and may require further Commission environmental processing.<sup>20</sup> One of these categories is "[f]acilities that may affect districts, sites, buildings, structures or objects, significant in American history, architecture,

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<sup>13</sup> NCTC is organized as a non-profit corporation under the laws of the State of California. NCTC's mission is to offer a foundation for the Chumash people of San Luis Obispo County to bring their culture and heritage back to life, to create dignity amongst their people, and to educate the public about Chumash inhabitation of San Luis Obispo County over the past 20,000 years. Although some of its members are Indian tribes recognized by the state of California, NCTC is a non-profit corporation, and is not an Indian Tribe. See [www.NorthernChumash.org](http://www.NorthernChumash.org) (last visited Nov. 19, 2010).

<sup>14</sup> Petition for Reconsideration filed by the Northern Chumash Tribal Council, dated Aug. 14, 2010, at 1-2 (NCTC Petition). Although the NCTC Petition is dated August 14, 2010, it was in fact filed September 20, 2010.

<sup>15</sup> *Id.* at 2-4.

<sup>16</sup> *Id.* at 4-5.

<sup>17</sup> *Id.* at 5.

<sup>18</sup> Petition for Reconsideration filed by Frank Arredondo, dated Oct. 8, 2010 (Arredondo Petition). Mr. Arredondo filed the petition for reconsideration as an individual. The Coastal Band of the Chumash Nation is a state recognized Indian tribe.

<sup>19</sup> Request for Stay filed by the Northern Chumash Tribal Council, dated Aug. 17, 2010 (NCTC Request for Stay); Arredondo Petition at 2. The NCTC Request for Stay is dated August 17, 2010, but was in fact filed on September 17, 2010.

<sup>20</sup> See 47 C.F.R. § 1.1307(a).

archaeology, engineering or culture, that are listed, or are eligible for listing, in the National Register of Historic Places.”<sup>21</sup> Another one of these categories is “[f]acilities that may affect Indian religious sites.”<sup>22</sup> These provisions effectuate Section 106 of the NHPA, which requires Federal agencies to take into account the effect of their undertakings on properties included in or eligible for inclusion in the National Register of Historic Places.<sup>23</sup> Section 101(d)(6)(B) of the NHPA requires that “[i]n carrying out its responsibilities under section 106, a Federal agency shall consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to” historic properties that may be affected by the undertaking.<sup>24</sup>

11. It is undisputed that both the Centinela Peak and Valley Peak sites fall within the Santa Cruz Island Archaeological District, which is listed on the National Register. It is further undisputed that the Channel Islands are culturally significant to the Chumash people as the locus of their creation story. The question that we addressed in the No Adverse Effect Determination is whether the proposed towers will have an adverse effect on the historic district or on properties within the historic district that are eligible for listing on the National Register.

12. The petitioners argue that the Division cannot resolve this question because we did not properly consult with Indian Tribes and we therefore did not obtain the necessary information about properties of traditional cultural and religious significance to the Tribes. Specifically, NCTC states that it did not receive documentation regarding the project and was unable to visit the Island to confirm or dispute the FCC’s findings. NCTC further argues that the Commission should have followed up its attempts at contacting tribes with additional letters or telephone calls. Accordingly, NCTC contends, the Commission did not make a reasonable and good faith effort to consult in accordance with Sections 800.2(c)(2) and 800.2(d) of the Advisory Council on Historic Preservation (ACHP) rules.<sup>25</sup> Mr. Arredondo argues that because the Division never properly initiated Section 106 consultation, it has violated its trust responsibility to and ignored its government-to-government relationship with federally recognized Indian Tribes.<sup>26</sup> In particular, Mr. Arredondo argues that the FCC should have sent a letter to the leadership of all Tribes that may attach religious and cultural significance to any historic properties, with a copy of the letter to each Tribal Historic Preservation Officer or cultural resource officer.<sup>27</sup> Mr. Arredondo further contends that the FCC improperly delegated consultation responsibilities, including the authority to set deadlines for tribal comments, to TNC, that the archaeologist who conducted the site surveys lacked the necessary expertise in Tribal values, and that the Division’s conduct of a meeting at which no member of the Santa Ynez Band government was present did not constitute consultation.<sup>28</sup>

<sup>21</sup> See 47 C.F.R. § 1.1307(a)(4).

<sup>22</sup> See 47 C.F.R. § 1.1307(a)(5).

<sup>23</sup> 16 U.S.C. § 470f.

<sup>24</sup> 16 U.S.C. § 470a(d)(6)(B).

<sup>25</sup> See NCTC Petition at 1-2; 36 C.F.R. §§ 800.2(c)(2), 800.2(d). The ACHP is an independent federal agency charged with, among other things, promulgating rules and regulations to govern the implementation of Section 106. 16 U.S.C. § 470s.

<sup>26</sup> Arredondo Petition at 2-4.

<sup>27</sup> *Id.* at 5.

<sup>28</sup> *Id.* at 6-7.

13. These arguments fail for several reasons. First, Sections 101(d)(6) of the NHPA and 800.2(c)(2) of the ACHP's rules apply on their face to federally recognized Indian Tribes.<sup>29</sup> These special provisions for Tribal consultation arise out of the United States' government-to-government relationship with and trust responsibility toward federally recognized Tribes.<sup>30</sup> However, neither NCTC nor Mr. Arredondo is or represents a federally recognized Tribe. In order to establish standing, a party must allege sufficient facts to demonstrate a direct injury to itself.<sup>31</sup> Because the benefits of Sections 101(d)(6) and 800.2(c)(2) run to federally recognized Indian Tribes, neither NCTC nor Mr. Arredondo has standing to raise arguments under these provisions.

14. Moreover, even if we were to consider the merits of these arguments, the Commission did offer federally recognized Indian Tribes an opportunity to consult regarding these proposed towers, consistent with the NHPA and the Commission's rules. Federally recognized Tribes were initially contacted about these towers not by TNC or Sprint Nextel, but by the Commission through the TCNS. Unless a Tribe has stated otherwise, this is the preferred method for contacting Indian Tribes, as stated in the Nationwide Programmatic Agreement that was signed by the ACHP and incorporated into the Commission's rules.<sup>32</sup> The Commission sent this notice to the individual designated by each federally recognized Tribe to receive such notices. After the Santa Ynez Band indicated an interest in these sites, representatives of the Division, TNC, and Sprint Nextel worked directly with that Tribe's designated representative, Freddie Romero, and provided him with the information, explanations, and site visit opportunities that he requested. The Division did not delegate to TNC or Sprint Nextel any decisionmaking authority, but only the responsibility to work with the Santa Ynez Band to the extent the Tribe was comfortable doing so.<sup>33</sup> Although the TCNS process does not substitute for government-to-government consultation, it is intended to obviate the need for formal consultation in appropriate cases with the Tribe's consent.<sup>34</sup> There is no evidence that the Santa Ynez Band or any other federally recognized Tribe found its opportunity to participate in the review of these proposed towers or to request consultation to be inadequate. Accordingly, the Division fully met the Commission's obligations to federally recognized Tribes under the NPA.

15. State-recognized tribes and intertribal organizations, such as NCTC, may participate in the Section 106 process as members of the public and may request consulting party status.<sup>35</sup> Under the

<sup>29</sup> See 16 U.S.C. § 470(w)(4) (defining "Indian tribe" as used in the NHPA to mean a federally recognized Indian Tribe); 36 C.F.R. § 800.16(m) (similar).

<sup>30</sup> See 36 C.F.R. § 800.2(c)(2)(ii)(B),(C); see also Statement of Policy on Establishing a Government-to-Government Relationship with Indian Tribes, *Policy Statement*, 16 FCC Rcd 4078 (2000).

<sup>31</sup> See Friends of the Earth, Inc. and Forest Conservation Council, Inc., *Memorandum Opinion and Order*, 17 FCC Rcd, 201, 203, para. 6 (WTB/CWD 2002), *app. for review denied*, 18 FCC Rcd 23622 (2003).

<sup>32</sup> See NPA, § IV.E.

<sup>33</sup> See ACHP Memorandum dated Sept. 21, 2000 titled "Delegation of Authority for the Section 106 Review of Telecommunications Projects" (authorizing applicants to initiate, coordinate, and assist the FCC with compliance with many aspects of the Section 106 review process).

<sup>34</sup> See NPA, § IV.G.

<sup>35</sup> See 36 C.F.R. §§ 800.2(c)(5), 800.2(d); see also Arredondo Petition at 4.



NPA, applicants are encouraged to grant consulting party status to individuals and organizations with a demonstrated legal or economic interest in the undertaking or relevant expertise, and consulting parties are entitled to receive information sent to the SHPO and to have their views taken into account.<sup>36</sup> The record shows that on March 26, 2010, the Chumash Advisory Alliance (CAA) requested consulting party status on behalf of NCTC, the Barbareno Chumash Council, and the Coastal Band of the Chumash Nation.<sup>37</sup> Thereafter, CAA, as NCTC's representative, received copies of all documents sent to the CA SHPO and an opportunity to comment on those documents. Specifically, Deborah Sanchez of CAA was sent both the May 21, 2010 e-mail enclosing the archaeological report prepared by TNC's consultant and the June 24, 2010 e-mail forwarding the CA SHPO's conditional no adverse effect finding, each of which included instructions for sending comments to TNC or the Commission.<sup>38</sup> Representatives of the state-recognized tribes also participated in earlier stages of the review, including the November 19, 2009 conference call and the January 30-31, 2010 site visit. We therefore find that NCTC, through its representative CAA, received all the rights to which it was entitled as a consulting party and had a full opportunity to make known any effects the proposed towers would have on historic properties of traditional cultural and religious significance to its members.

16. We reject NCTC's suggestion that a complete consultation process must result in Tribal concurrence in a finding of no effect or no adverse effect.<sup>39</sup> Although a consensus result is desirable, consultation denotes not an outcome but a process involving open dialogue and complete consideration of the other party's interests and views. Where consensus cannot be reached after a full consultation process, the federal agency retains discretion as the decisionmaker regarding its undertakings.

17. NCTC also argues that the Division considered improper factors and overlooked relevant evidence in concluding that the towers will have no adverse effect. Specifically, NCTC objects to the Division's observations regarding agricultural disturbance at the sites, the presence of an existing microwave tower and associated infrastructure, and the Centinela Peak site's previous use as a staging area for road building operations, arguing that these intrusions do not diminish the sacred importance of the sites.<sup>40</sup> NCTC further states that visitors to the Centinela Peak site observed possible burial stones, a midden, lithics, and shell deposits, and it opines that the Valley Peak site was used for worship ceremonies and communications.<sup>41</sup> NCTC also argues that the observation of an archaeological site more than 100 meters from the Centinela Peak site means there was more Chumash activity at the Centinela Peak site than had been previously thought.<sup>42</sup>

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<sup>36</sup> NPA, §§ V.F, V.G.

<sup>37</sup> See E-mail and Fax dated Mar 26, 2010, from Deborah L. Sanchez, Chumash Advisory Alliance, to Stephen DelSordo, Federal Communications Commission. (A copy of this request dated March 25, 2010, was attached to NCTC's petition).

<sup>38</sup> We note that Mr. Arredondo was sent both of these communications as well.

<sup>39</sup> See NCTC Petition at 2.

<sup>40</sup> *Id.* at 2-3.

<sup>41</sup> *Id.* at 3.

<sup>42</sup> *Id.* at 4.

18. We find NCTC's arguments to be without merit. Although NCTC states that the Centinela Peak and Valley Peak tower locations are sacred sites, there is no support for this assertion in the record.<sup>43</sup> As stated in the No Adverse Effect Determination, a survey by two archaeologists found no deposits at either proposed tower location, but only an ephemeral site at the Valley Peak staging area and an archaeological site 100 meters distant from Centinela Peak. The Tribal monitor who accompanied the archaeologists on their study did not disagree with these conclusions.<sup>44</sup> Based on this survey, and absent other information from the federally recognized Tribe or other consulting parties, the CA SHPO reasonably found that the towers would have no adverse effect. We affirm our concurrence with this recommendation. Moreover, while the No Adverse Effect Determination noted the presence of existing disturbances on the Island, these disturbances did not form the basis for our decision.

19. Finally, NCTC argues that the towers are not needed because communications can be provided on the Island through satellite or other technologies.<sup>45</sup> NCTC further argues that Sprint Nextel will obtain revenue from ship traffic in nearby channels, and that the visitors to the Island include rich donors to TNC.<sup>46</sup> NCTC does not support these assertions. In any event, considerations of alternatives and need are not dispositive in the absence of an adverse effect.

#### IV. CONCLUSION

20. In sum, we find that the petitioners had a full opportunity to participate in the Section 106 process as required under the NHPA and the NPA. We further find that our determination of no adverse effect is supported by the record. We therefore affirm our finding that these towers will have no adverse effect on historic properties subject to the conditions recommended by the CA SHPO regarding monitoring, pace of work, and notification of unanticipated discoveries. Because we deny the Petitions for Reconsideration, we dismiss the requests for stay as moot.<sup>47</sup>

#### V. ORDERING CLAUSES

21. Accordingly, **IT IS ORDERED**, pursuant to Sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 405, Section 106 of the National Historic Preservation Act of 1966, 16 U.S.C. § 470f, and Sections 1.106, 1.1307(a)(4), and 1.1307(a)(5) of the

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<sup>43</sup> We recognize that Indian Tribes may be reluctant to divulge information about their sacred sites, and we are prepared to accommodate their interests in privacy and confidentiality. See 36 U.S.C. § 800.4(a)(4) (federal agency shall "recognize[e] that an Indian tribe . . . may be reluctant to divulge specific information regarding the location, nature, and activities associated with [religiously and culturally significant] sites"); NPA, § IV.I. Nonetheless, an Indian Tribe must at a minimum indicate that relevant confidential information exists in order for us to consider its significance.

<sup>44</sup> While the monitor cannot speak for the federally recognized Tribe, see NCTC Petition at 3-4, in the absence of contrary information from the Tribe we consider the monitor's concurrence as evidence supporting the likely accuracy of the survey's findings.

<sup>45</sup> NCTC Petition at 4.

<sup>46</sup> *Id.* at 4-5.

<sup>47</sup> In addition, Mr. Arredondo's request for stay is subject to dismissal because he did not file it as a separate pleading as required under Section 1.44(e) of the Commission's rules, 47 C.F.R. § 1.44(e).



Commission's Rules, 47 C.F.R. §§ 1.106, 1.1307(a)(4), 1.1307(a)(5), that the Petition for Reconsideration filed on September 20, 2010, by the Northern Chumash Tribal Council **IS DENIED**.

22. **IT IS FURTHER ORDERED** that the Petition for Stay filed on September 17, 2010, by the Northern Chumash Tribal Council **IS DISMISSED AS MOOT**.

23. **IT IS FURTHER ORDERED**, pursuant to Sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 405, Section 106 of the National Historic Preservation Act of 1966, 16 U.S.C. § 470f, and Sections 1.106, 1.44(e), 1.1307(a)(4), and 1.1307(a)(5) of the Commission's Rules, 47 C.F.R. §§ 1.106, 1.44(e), 1.1307(a)(4), 1.1307(a)(5), that the Petition for Reconsideration filed on October 8, 2010, by Frank Arredondo **IS DISMISSED** insofar as it seeks a stay of the effectiveness of the Division's determination and otherwise **IS DENIED**.

24. These actions are taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Jeffrey S. Steinberg  
Deputy Chief  
Spectrum & Competition Policy Division  
Wireless Telecommunications Bureau